



George Latimer
County Executive

Department of Law

John M. Nonna
County Attorney

May 5, 2023

VIA CM/ECF

Hon. Philip M. Halpern
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Clarification Regarding the Recently Filed Joint 56.1 Statement
Delux Public Charter, LLC, et al. v. County of Westchester,
No. 22-cv-1930 (PMH) (S.D.N.Y.)

Your Honor,

A moment ago, defendant County of Westchester (the “County”) filed the joint local Rule 56.1 Statement in support of its forthcoming motion for summary judgment (the “56.1”). (CM/ECF Doc. No. 93.) The 56.1 does not comply with your April 11, 2023 order’s directive to “limit the Rule 56.1 Statement to 25 pages.” (CM/ECF Doc. No. 90 [hereinafter, the “Order”].) The 56.1 is 27 pages long—not including the signature block, which is included on the 28th page.

The 56.1 is overlong because of Plaintiff’s 36-paragraph long Counterstatement of Facts (“COF”). Most of the COFs clearly violate the Court’s directive (ECF No. 90) to set forth a “counterstatement of facts only to the extent required to address facts applicable to claims for relief or defenses.” The Court should also note that Westchester’s own 56.1 Statement was 13 pages long, exclusive of caption and signature block, leaving Plaintiffs nearly half the available pages to respond. Plaintiffs responded *and* added nearly 3 pages of COFs to those responses, bringing the 56.1 Statement to exactly 25 pages and leaving Westchester no space to respond to the COFs. In



other words, Plaintiffs have forced Westchester to either exceed the page limit, or else not respond to the COFs at all and thus risk having them be deemed admitted. *See Emanuel v. Gap, Inc.*, 2022 U.S. Dist. LEXIS 138156, at *15 n.6 (S.D.N.Y. Aug. 3, 2022).

Respectfully submitted,

JOHN M. NONNA

Westchester County Attorney
Attorney for the County

By: 

Sean T. Carey (SC8804)
Sr. Assistant County Attorney, of Counsel
Michaelian Office Building
148 Martine Avenue, Room 600
White Plains, New York 10601
T: (914) 995-2243
F: (914) 995-3132
stca@westcehstergov.com

CC: All Counsel (*via CM/ECF*)